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Attorneys for Plaintiff
 JORGE R. QUEZADA, individually and on behalf of all
 others similarly situated

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JORGE R. QUEZADA, individually, and on)
 behalf of all others similarly situated,)
)
 Plaintiff,)
)
 v.)
)
 CON-WAY INC., and CON-WAY FREIGHT)
 INC.,)
)
 Defendants.)

Case No. C10 00100 JF

STIPULATION AND ~~PROPOSED~~
ORDER MODIFYING
SCHEDULING ORDER

Case No. C 09-03670 JF

Complaint Filed: February 17, 2009

TO THE HONORABLE COURT AND THE CLERK OF THE COURT:

TAKE NOTICE THAT the undersigned counsel of record for Plaintiffs and Defendant
 hereby stipulate and request that the Court enter the following Order forthwith:

1 **WHEREAS**, Defendants and Plaintiff Quezada agreed that Defendant had priority in taking
2 Plaintiff Quezada's deposition before taking Defendant's Person Most Knowledgeable deposition;

3 **WHEREAS**, Defendant completed the deposition of Plaintiff Quezada on October 18,
4 2010.

5 **WHEREAS**, after entering into the priority agreement respecting Plaintiff Quezada,
6 counsel for Quezada assumed the representation of Plaintiffs Colon Vigil and Fonseca.

7 **WHEREAS**, Defendants asserted that the deposition priority agreement applied to all
8 Plaintiffs. Plaintiffs disagreed with that contention, but attempted to work cooperatively to
9 schedule all of the necessary depositions.

10 **WHEREAS**, the Court has granted one prior sixty day extension of the class certification
11 briefing schedule to accommodate the parties' difficulties in scheduling the Vigil, Fonseca and
12 Colon depositions. Defendant completed the depositions of Plaintiffs Vigil and Fonseca on March
13 3 and 4. Plaintiff Colon has withdrawn from the position of representative plaintiff due to a
14 medical condition that impaired his ability to perform the functions of a class representative.

15 **WHEREAS**, Plaintiff unsuccessfully attempted to schedule the depositions of Defendant
16 pursuant to Rule 30(b)(6) on mutually agreeable dates and ultimately served deposition notices for
17 such deposition on the unilaterally selected dates of March 15 and 16, 2011 in order to complete
18 this essential discovery in sufficient time to meet the impending deadline for the filing of
19 Plaintiff's motion for class certification on April 15, 2010. Defendant's counsel has served written
20 objections to such deposition notices on multiple grounds including his unavailability on the
21 noticed dates and the noticed location for the deposition, San Francisco.

22 **WHEREAS**, Defendant's counsel has previously been unable to commit to mutually
23 agreeable deposition dates due to the pendency of hotly contested motions and a trial set to begin in
24 an unrelated matter in San Francisco on May 2, 2011. Based on the foregoing, Defendant requires
25 a brief further interval in order to prepare for and submit to deposition by Plaintiff.

26 **WHEREAS**, the parties agree that a continuance of forty-five days of the current briefing
27 schedule will allow sufficient time for the parties to complete certification-related discovery and
28 allow Plaintiffs to prepare their motion.

NOW THEREFORE, the parties hereby request, based on the showing of good cause discussed herein, that Plaintiff Colon be dismissed without prejudice as a named Plaintiff and that the certification briefing schedule be continued forty-five days as follows:

- (1) Certification Motion Filing Date: no later than May 31, 2011;
- (2) Opposition Filing Date: no later than July 29, 2011;
- (3) Reply Deadline: no later than August 29, 2011;
- (4) Hearing Date: Sept. 12, 2011 at 9:00 a.m.; and
- (6) Further Case Management Conference: Sept. 26, 2011 at 10:30 a.m.

All counsel agree that the only change in the status of the case since the Case Management Conference has been the Court's prior sixty day extension of the briefing schedule and further discovery as described above. This is the second request for a continuance of dates requested by the parties.

Dated: April 5, 2011

/s/
KENNETH O' BRIEN
ERICA H. KELLEY
LITTLER MENDELSON
A Professional Corporation
Attorneys for Defendant
CON-WAY FREIGHT INC.

Dated: April 5, 2011

/s/
R. DUANE WESTRUP
LAWRENCE R. CAGNEY
WESTRUP KLICK, LLP
Attorneys for Plaintiffs
JORGE R. QUEZADA AND ROBERT
COLON

1 Dated: April 6, 2011

2
3 _____/s/
4 JONATHAN CHE GETTLEMAN
5 Attorney for Plaintiffs
6 JOSE ALBERTO FONSECA PINA AND
7 ROGELIO VIGIL

8 PURSUANT TO STIPULATION, IT IS SO ORDERED THAT PLAINTIFF COLON IS
9 HEREBY DISMISSED WITHOUT PREJUDICE AS A NAMED PLAINTIFF AND THE
10 BRIEFING SCHEDULING ON PLAINTIFFS' MOTION FOR CLASS CERTIFICATION BE
11 MODIFIED AS DESCRIBED ABOVE.

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13 Dated: 4/14/11 _____

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15 THE HONORABLE JEREMY FOGEL
16 UNITED STATES DISTRICT JUDGE
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